Supreme Court, U.S.
FILED

No. 99-1215 JAN 18 2000

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IN THE

Supreme Court of the United States

CURTIS BATTS, *et al.*,

Petitioners,

—v.—

DEBORAH CLINTON, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA COURT OF APPEAL FOR THE SECOND APPELLATE DISTRICT, DIVISION FOUR

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Pursuant to Rule 14(1)(a) of the Rules of this Court, petitioners present the following questions for review by Certiorari:

Do the First and Fourteenth Amendments to the Constitution of the United States preclude a civil court from enforcing the bylaws of a non-hierarchical church in a non-ecclesiastical dispute not involving church property?

PARTIES TO PROCEEDING

Petitioners:

Curtis Batts; Herman Hollis; Roosevelt Davis; Mildred Payne; Andrew Sanderson; William Wilson; James Dennis; Helen Dennis

Respondents:

Deborah Clinton; Lara Meeks; Karen Raper; Phyllis Tucker; Alicia Walker; Sheila Wright; Robert Woodford; Calvary Baptist Church of Pacoima, Inc., a corporation

TABLE OF CONTENTS

	PAGE
QUESTIONS FOR REVIEW	i
PARTIES TO PROCEEDING	ii
TABLE OF AUTHORITIES	iv
OPINION BELOW	1
STATEMENT OF JURISDICTION	1
CONSTITUTIONAL PROVISION	1
STATEMENT OF THE CASE	1
ARGUMENT	3
CONCLUSION	6

TABLE OF AUTHORITIES

Cases

PAGE

Jones v. Wolf, 443 U.S. 595 (1979) 2, 4

Protestant Episcopal Church v. Barker, 115 Cal.App.3d 599 (1981) 4

Serbian Orthodox Diocese v. Miliojevich, 426 U.S. 696 (1976) 3, 4

Vukovich v. Radulovich, 235 Cal.App.3d 281 (1991) 2, 3, 4

Statutes

28 USC § 1257 1

Rules

Rule 14(1)(a) i

OPINION BELOW

The opinion of the Court of Appeals of the State of California in this matter was not published in the official or unofficial reports. The opinion is included in the appendix hereto.

STATEMENT OF JURISDICTION

(a) The Order to be reviewed herein was entered by the Superior Court, County of Los Angeles, State of California, on August 31, 1998;

The order was affirmed by the Court of Appeal, State of California, Second District, on August 5, 1999;

(b) Discretionary review was denied by the Supreme Court, State of California, on October 20, 1999.

(c) This court has jurisdiction of the within matter pursuant to 28 USC § 1257.

CONSTITUTIONAL PROVISION

The First Amendment to the United States Constitution reads as follows:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

STATEMENT OF THE CASE

On July 16, 1998, appellants filed an action in the Superior Court, State of California, County of Los Angeles, seeking a declaration that an election conducted by appellee Calvary Baptist Church of Pacoima, Inc. (hereinafter Calvary) on June 30, 1998 was invalid as in violation of the bylaws of the

church. The election purported to elect new members of the Board of Trustees.

All appellants were members of the Board of Trustees immediately prior to the election, and their terms had not yet expired. All appellees, other than Calvary, are new members of the board purportedly elected at the subject meeting.

In addition to the fact that appellants' terms had not expired, appellants contend that the election was invalid as no quorum of members was present, the number of members entitled to vote was incorrectly calculated, and the Nominating Committee was improperly formed.

On August 31, 1998, the Superior Court issued a preliminary injunction, finding that the election was 'clearly invalid'. The preliminary injunction enjoined appellees "from and in any manner, directly or indirectly, acting, or purporting to act to in any manner to cause more than four new members of the Board of Trustees to be elected at the meeting of Calvary Baptist Church on June 30, 1998."

Appellants believed the injunction should have prevented any new members of the Board of Trustees from being deemed elected, and appealed the order to the Court of Appeals of the Second District.

The Court of Appeals affirmed, in an unpublished opinion filed August 5, 1999.

The federal constitutional issue was first raised in the Court of Appeals. In its opinion, that court held that the First Amendment to the United States Constitution forbids a court from acting to enforce church bylaws, except in cases involving property, as permitted by *Jones v. Wolf*, 443 U.S. 595, 602 (1979). The court relied on *Vukovich v. Radulovich*, 235 Cal.App.3d 281 (1991):

> "Thus it is immaterial that appellants seek to characterize the dispute in this case as one of church governance

as opposed to religious doctrine. *Vukovich* holds that under either characterization the dispute is immune from judicial interference unless property rights are affected, which they concededly are not in this case." (Court of Appeals Opinion, page 6.)

ARGUMENT

The Court of Appeals, in addition to *Vukovich,* relied on two opinions of this court in holding that secular courts have no jurisdiction to resolve "matters of 'internal church government' ", stating that such issues are "at the core of ecclesiastical affairs." [Opinion, page 4]

In *Serbian Orthodox Diocese v. Miliojevich*, 426 U.S. 696, 721 (1976), this Court reversed a decision of the Supreme Court of Illinois which purported to determine that a bishop had been deposed in contravention of canon law. In so reversing this court stated the issue as follows:

> "The fallacy fatal to the judgment of the Illinois Supreme Court is that it rests upon an impermissible rejection of the decisions of the highest ecclesiastical tribunals of this hierarchical church upon the issues in dispute, and impermissibly substitutes its own inquiry into church polity and resolutions based thereon of those disputes . . . To permit civil courts to probe deeply enough into the allocation of power within a [hierarchical] church so as to decide . . . religious law [governing church polity] . . . would violate the First Amendment in much the same manner as civil determination of religious doctrine." [Emphasis supplied.]

In *Miliojevich* this court made clear that its holding applied to *hierarchical* church governments and that the First and Fourteenth Amendments forbid inquiry into decisions rendered by the tribunal of last resort. In the present case, there is no evidence that appellee Calvary Baptist Church is subject to the

direction of a hierarchical church government or that a forum exists for resolving disputes.

Jones v. Wolf, 443 U.S. 595 (1979) similarly involved a dispute within a *hierarchical* church over ownership of church property. The Supreme Court stated the issue to be whether the civil courts "must defer to the resolution of an *authoritative tribunal of the hierarchical church*" in questions of church property. [Emphasis supplied.] 443 U.S. at 597. The within case involves no issue of an 'authoritative tribunal of a hierarchical church', but rather seeks a determination of compliance by a religious corporation with its bylaws on non-ecclesiastical issues.

Also see, *Protestant Episcopal Church v. Barker*, 115 Cal.App.3d 599, 605 (1981), discussing the nature of a hierarchical church:

> "The hierarchical theory asserts that when a general church has been organized and operated as a closely knit organization, when a hierarchical chain of command controls decisions in both ecclesiastical and temporal matters, and when there are superior ecclesiastical authorities which retain ultimate power of disposition, the decisions of such ecclesiastical authorities (tribunals or individuals) control the disposition of church property. Under the hierarchical theory centralized church control over church property supersedes civil law disposition of church property. Under a hierarchical system of church governance the canons and rules of the general church override any disposition of local church property mandated by state law."

In *Vukovich v. Radulovich*, 235 Cal.App.3d 281 (1991), the Court of Appeal recognized that the hierarchical structure of churches in the *Jones* and *Miliojevich* decisions were decisive to this court's holdings:

> "As to religious controversies within *hierarchical* churches, such as the Serbian Orthodox Church, it has been settled for over a century that 'whenever questions of discipline or of faith, or ecclesiastical rule, custom or law have been decided by the highest of [the] church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them.' . . . *The same principle is dispositive in the present controversy, the latest fruit of the 30-year-old split within the Serbian Orthodox Church in America.*" [Emphasis supplied.]

The court went on to point out that the question had been adjudicated by the highest tribunal in the hierarchical church:

> "The Diocese, 'the highest of [the] church judicatories to which the matter had been carried' (Watson, supra, 80 U.S. (13 Wall.) at p. 727 [20 L.Ed. at p. 6761), accepted the validity of the vote by welcoming St. Sava into its ecclesiastical embrace . . . *[W]e must accept the Diocese's decision on that question as final and binding.*" [Emphasis supplied.]

The decision of the Court of Appeal in this case leaves members of non-hierarchical churches with no remedy whatever when actions are taken which contravene duly adopted rules of church governance. In the cases considered by the Court of Appeal, established procedures existed for resolution of such disputes, procedures which do not exist in the present case.

CONCLUSION

Petitioners thus request that this court grant the within petition to determine the circumstances in which courts may adjudicate such disputes.

Respectfully Submitted,

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APPENDIX

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

B126203
(Super. Ct. No. BC 194392)
Filed August 5, 1999

CURTIS BATTS et al.,

Plaintiffs and Appellants,

—v.—

DEBORAH CLINTON et al.,

Defendants and Respondents.

APPEAL from an order of the Superior Court of Los Angeles County, David P. Yaffe, Judge. Affirmed.

Michael J. Melton for Plaintiffs and Appellants.

R. K. Bickerstaff for Defendants and Respondents.

In this case several church members challenge the election of the church's board of trustees. They argue that the court should enforce certain church bylaws that they contend were violated in the election. We hold that the First and Fourteenth Amendments to the United States Constitution prohibit government interference in this matter, because the dispute concerns internal church government and its outcome does not affect property rights.

FACTUAL AND PROCEDURAL SUMMARY

Appellants are members of Calvary Baptist Church of Pacoima, Inc. (Church). They were members of the board of trustees of the Church prior to the June 30, 1998, Church meeting at which new trustees purportedly were elected. Respondents include the Church and seven Church members who purportedly were elected to the board of trustees at the June 30 meeting.

On March 22, 1998, in preparation for the election of trustees, the Church elected a nominating committee. Appellants contend that insufficient notice was given for this meeting and that there were fewer members of the nominating committee than the number required by the Church bylaws.

Church bylaws provide that a quorum "for the transaction of business shall consist of 25% of the membership in good standing and who have received the right hand of fellowship." The Church's membership committee did a general survey to try to reconcile problems in the Church's membership records, such as failure of Church records to reflect whether some persons had passed the required hours of Christian education and received the "right hand of fellowship;" absence of information about whether a person had changed church membership; and lack of data on the length of time a member had been inactive. The membership committee produced a 40-page report which discussed the results of the survey and concluded that there were 370 voting members of the Church. At an April 21, 1998, meeting, more than two-thirds of Church members attending voted to accept the membership committee's report

At the June 30, 1998, trustee election, 25 percent of the Church membership was present at all times, based on the figure of 370 total voting members. Before the election, the board of trustees was composed of 19 members. At the June 30 meeting, the nominating committee submitted a slate of 14 nominees for the board of trustees. However, the Church

bylaws state that "no more than 25 percent of the members [of the board of trustees] are to be elected new each year."

In the court below, appellants sought a temporary restraining order and preliminary injunction precluding installation of the purported new members of the Church board of trustees. They contended that the election of June 30, 1998, was invalid on three grounds: (1) the nominating committee was not lawfully constituted, (2) the Church improperly acted to decrease the number of members permitted to vote, thereby reducing the number of members necessary for a quorum, and (3) the Church improperly purported to elect more than 25 percent of the board of trustees at a single election.

The trial court granted a temporary restraining order and preliminary injunction prohibiting the Church from doing any act that "causes more than four new members of the Board of Trustees of the [Church] to have been elected on June 30, 1998." However the court did not find that the election was invalid for lack of a quorum, because the trial court held that "it is not clear" that the quorum requirement of the bylaws applies to election of officers. Similarly, the court did not find that the election was invalid based on alleged defects in constituting the nominating committee. The court stated: "It is not clear that a properly constituted Nominating Committee is necessary for a valid election of members of the Board of Trustees."

DISCUSSION

On this appeal, appellants (the dissident Church members) contend that the trial court's order did not go far enough. They argue that, because of lack of a quorum and an improperly constituted nominating committee, the court should have invalidated the entire June 30, 1998, election and recognized that appellants continue to hold seats on the board of trustees. Respondents (the Church and the newly elected trustees) do not challenge the trial court's order that no more than four new members of the board of trustees may hold office.

Respondents contend, however, that any further action by the trial court would have violated the Church's rights under the First and Fourteenth Amendments to the United States Constitution.

Internal church matters are accorded protection from government interference by the First and Fourteenth Amendments. Matters of "internal church government" are "at the core of ecclesiastical affairs . . . ." (*Serbian Orthodox Diocese* v. *Milivojevich* (1976) 426 U.S. 696, 721.) "[R]eligious freedom encompasses the 'power [of religious bodies] to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.' " (*Id.* at pp. 721-722, quoting *Kedroff* v. *St. Nicholas Cathedral* (1952) 344 U.S. 94, 116.)

Church disputes involving property are an exception to the general rule that courts may not interfere in matters of church government. (*Jones* v. *Wolf* (1979) 443 U.S. 595, 602; *Vukovich* v. *Radulovich* (1991) 235 Cal.App.3d 281, 291 (*Vukovich*).) "Where an internal church dispute involves a question of ownership or control of church property which the civil courts can adjudicate by applying " 'neutral principles of law, developed for use in all property disputes,' " the civil courts may properly decide the issues in controversy." (*Vukovich*, *supra*, 235 Cal.App.3d 281, 291, quoting *Jones* v. *Wolf*, *supra*, 443 U.S. at pp. 599-605.)

Appellants make no claim that the controversy in this case involves church property, Rather they argue that church disputes over governance may be resolved by the courts so long as no theological issues or matters of church doctrine are involved. This argument was rejected in *Vukovich*.

In *Vukovich* the court considered a claim by church members that a vote to reaffiliate their church with the Serbian Orthodox Church should be invalidated because the vote violated church bylaws. (*Vukovich*, *supra*, 235 Cal.App.3d at p. 284.) The dissident church members in that case argued that they did not "seek to challenge the validity of the membership's religious decision to reaffiliate or the Diocese's

acceptance of that decision. They insist[ed] that they object[ed] only to the manner in which the Board interpreted church bylaws on and before March 19, 1989, so as to deprive a class of church members of their purported rights to notice and voting. However, plaintiffs miss they key point: *regardless of how they characterize the gravamen of their complaint*, to show that the civil courts may exercise jurisdiction in this case *plaintiffs must first show that the dispute turns on a present controversy over church property* which may be decided by applying 'neutral principles of law.' (*Jones* v. *Wolf*, *supra*, 443 U.S. at pp. 599-605 . . . ; *Presbyterian Church* v. *Hull Church* [(1969)] 393 U.S. [440], 449 . . . ; see *Korean United Presbyterian Church* v. *Presbytery of the Pacific* (1991) 230 Cal.App.3d 480, 496-499 . . . .)" (*Vukovich*, *supra*, 235 Cal.App.3d at 292, italics added.) Thus, it is immaterial that appellants seek to characterize the dispute in this case as one of church governance as opposed to religious doctrine. *Vukovich* holds that under either characterization the dispute is immune from judicial interference unless property rights are affected, which they concededly are not in this case.[1]

Appellants also argue that by following *Vukovich* this court implicitly would hold unconstitutional the provisions of the California Corporations Code governing religious corporations. California Corporations Code sections 9110 through 9690 provide the rules under which a nonprofit religious organization may operate as a corporation and obtain the privileges and protections of corporate status. In many instances, those code sections will provide precisely the neutral principles of law that allow courts to resolve property disputes involving religious corporations. The statute also governs the rights of a church corporation vis-a-vis third parties. Neither this case nor *Vukovich* suggests that these provisions of the Corporations Code are facially unconstitutional.

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[1] We decline appellants' invitation to refuse to follow *Vukovich*. Appellants have not demonstrated that the decision conflicts with United States Supreme Court or California Supreme Court authority.

Moreover even a church dispute involving property only can be adjudicated by a court if the dispute can be resolved by reference to "neutral principles of law" which do not involve an inquiry into religious doctrine. (*Jones* v. *Wolf*, *supra*, 443 U.S. at pp. 602-603.) Appellants ask the court to determine whether there was a proper quorum at the meeting to elect trustees. In order to rule on that issue, a court would have to determine the number of "the membership in good standing and who have received the right hand of fellowship" according to the Church bylaws. No "neutral principles" would guide the court in second-guessing the Church's interpretation of its own membership records or in deciding what it means to be a member of the Church in "good standing." This dispute over the trustee election could not be decided without passing judgment on the Church's religious standards for membership.

We reject appellants' argument that the trial court should have invalidated the trustee election and reinstated the former trustees. Such rulings necessarily would have involved the court in Church decisions that are constitutionally protected from government interference.

DISPOSITION

The decision of the court below is affirmed. Respondents shall recover their costs on appeal.

KUHL, J.*

We concur:

VOGEL (C.S.), P.J.

CURRY, J.

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* Assigned by the Chairperson of the Judicial Council.